

MAIL STOP PETITION
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Hiroyuki GOTANI

Conf: 5470

Serial No.: 10/551,641

Group: 2121

Filed: August 14, 2006

Examiner: Thomas H. Stevens

For: **SURGICAL OPERATION DEVICE**

Attorney Docket: 12480-000146/US

**PETITION UNDER 37 C.F.R. § 1.181
TO WITHDRAW HOLDING OF ABANDONMENT**

**Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**

October 23, 2008

Dear Sir:

In response to the Notice of Abandonment dated August 26, 2008, Applicant hereby respectfully petitions under the provisions of 37 C.F.R. 1.181 and M.P.E.P. §711.03(c) for decision to withdraw the holding of abandonment.

The Notice of Abandonment dated August 26, 2008 indicates that this application was abandoned in view of Applicants' failure to timely pay the required issue fee and publication fee. However, a review of the file jacket for the present application, the firm docketing records, and the contents of the file for the present application reveals the our last response was filed to the Notice to File Missing Requirements dated June 13, 2006 on August 14, 2006, and that the last

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correspondence received from the Patent Office was the Notice of Publication dated December 14, 2006 (copy of file jacket enclosed).

The fact that no correspondence has been received from the Patent Office is evidenced by **Exhibits I-II** attached hereto.

Exhibit I is a copy of the front page of the attorney's file jacket of Serial No. 09/371,512. It is the policy in our office to record all information regarding Office Actions and responses on the front page of the file jacket. As the Petition Examiner will note, there is no entry with respect to the April 30, 2008 Notice of Allowance.

Exhibit II is a copy of the manual daily docket sheet for Harness Dickey & Pierce P.L.C. (Reston Office) for the date of July 30, 2008, containing entries made by our Docketing Personnel of due dates in response to United States Patent and Trademark Office Actions. It is the policy of our office to docket all due dates for Office Actions received from United States Patent and Trademark Office into our manual docket system. As indicated there is no entry which corresponds to Application Serial No. 10/551,641, for response to this Office Action.

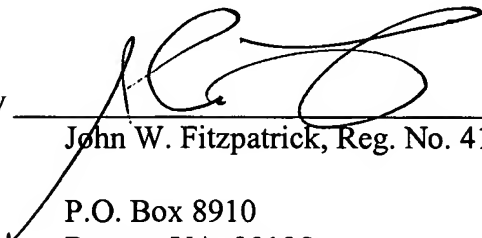
In view of the above-described facts, it is readily apparent that the abandonment of the present application was unavoidable. Accordingly, this petition is being timely filed for the purpose of petitioning withdrawal of the abandonment in view of the above-stated facts.

It is further believed that no petition fee is necessary in connection with this petition. In the event that the petition fee is deemed necessary by the United States Patent and Trademark Office, it is respectfully requested that the fee of \$130.00 as set forth in 35 U.S.C. §1.17(h)(1) be charged to Deposit Account No. 08-0750.

In the event that any matters remain at issue in the application, the Examiner is invited to contact the undersigned in the Northern Virginia area, for the purpose of a telephonic interview.

Respectfully submitted,

HARNESS, DICKEY AND PIERCE P.L.C.

By 
John W. Fitzpatrick, Reg. No. 41,018
P.O. Box 8910
Reston, VA 20195
(703) 668-8000

Attachments: Copy of Attorney's File Jacket Cover
Copy of July 30, 2008 Docket
Copy of August 26, 2008 Notice of Abandonment



U.S. PATENT APPLICATION FILE

-PCT-

Group:
Exam:

PROVISIONAL ☐

REGULAR ☐

DESIGN ☐



PATENT NO.

CLIENT/MATTER NO.

INVENTORS:
CLIENT:

HIROYUKI GOTANI

TITLE: SURGICAL OPERATION DEVICE

OFFICE ACTIONS:
Dated:

AUDITED

By

Date

RESPONSE:

Dated

By

AUDITED

Date

IDS Filed W/NEW

APP

Sept 29, 2005

IDS filed

12/29/05

Miss Rqmts 4/12/06

Miss Rqmts 8/13/06

F. 8/14/06

ALLOWED - (No. of Claims):

ISSUE FEE PAID

MAINTENANCE FEES:

Due:

Date Tickled For:

AUDITED

By

Date

Paid

AUDITED

By

Date

Priority:
FOREIGN FILING:

Japan

95905/2003

3/31/2003

PCT

PCT/JP 2004/004098

3/24/2004

Assignee:
REMARKS:

Japan Science and Technology Agency

Recorded:

Reel:

HARNES, DICKEY & PIERCE

Name:

DJO

Attorney

2006

ISSUED

REGULAR
SERIAL NO.

10/551,641

PROVISIONAL
SERIAL NO.

PROVISIONAL
FILING DATE

REGULAR
FILING DATE

SEPT 29, 2005

12480-000140/US

492003-74/US
HARAKEAN20

12480-000140/US

64-00008

Tuesday, July 29, 2008

Due Date List (by Due Date)

Page: 4 of 84

29-Jul-2008 To: 31-Jul-2008

App No.: 11/485529

Pat No.: 11/485529

App Dt: 13-Jul-2006

Iss Dt: 13-Jul-2006

Patent ☒ Trademark ☐ Gen. Matter ☒ EARS ☒

Due Date Indicator	Action Due Action Type	Matter Number/Subcase Country	Status	Bibliographic Numbers & Dates	Attorneys
30-Jul-2008	3 Mo Offc Act-Due In 1 Mo	10400S-P00006/01	Published	App No.: 11/485529	DJD,JWF
Due Date	US-3 Month Office Action	United States of America		Pat No.: 11/485529	
HDP Number:		Title: VEHICLE DOOR OPENING SYSTEM			
10400S-000006/US		Client: Awapatent- Saab			Responsible: NFP
		Client Reference: Client Ref. 1: US-21026992			
		Action Due Remarks:			
		Due Date Remarks:			
30-Jul-2008	Issue Fee-1 Mo Reminder	12090-P00022/02	Allowed	App No.: 10/548664	JAC,DJC
Due Date	US-Notice of Allowance Rec'd	United States of America		Pat No.: 10/548664	
HDP Number:		Title: SYSTEM AND A METHOD OF DETERMINING THE POSITION OF A RADIATI ON EMITTING ELEMENT			
12090-000022/US/NPB		Client: Brann AB			Responsible: NFP
		Client Reference: Client Ref. 1: 15624US01			
		Action Due Remarks: PD Ack'd			
		2 mo cu noted			
		Due Date Remarks:			
30-Jul-2008	Rst Requirement-Due Election	12480-P00160/01	Published	App No.: 11/344084	DJD,JHA
Due Date	US-Restriction Requirement	United States of America		Pat No.: 11/344084	
HDP Number:		Title: SEMICONDUCTOR DEVICE AND MANUFACTURING METHOD THEREOF			
12480-000160/US		Client: Harakenzo			Responsible: filing
		Client Reference: Client Ref. 1: 051203/US			
		Action Due Remarks:			
		Due Date Remarks:			

Tuesday, July 29, 2008		Due Date List (by Due Date)		Page 5 of 94	
29-Jul-2008	To	31-Jul-2008	Data From	<input checked="" type="checkbox"/> Patent	<input type="checkbox"/> Trademark
			<input type="checkbox"/> Gen. Matter <input checked="" type="checkbox"/> EARS		

Due Date Indicator	Action Due Action Type	Matter Number/Subcase Country	Status	Bibliographic Numbers & Dates			Attorneys
30-Jul-2008	IDS w/ Refs	1740-P00039A/01	Allowed	App No.: 11/488820	App Dt: 19-Jul-2006	TLC	
Due Date	DC-IDS w/ Refs	United States of America		Pat No.:	Iss Dt:		
HDP Number:		Title: Recording Medium With Restricted Playback Feature And Apparatus And Methods For Forming, Recording, And Reproducing The Recording Medium					
1740-000039/US/COA		Client: Royal Patent Law Firm					
		Client Reference: Client Ref. 1: OPP-2006-0604-US; Client Ref. 2: 02FDML059; Client Ref. 3: P07705DU/CIT					
		Action Due Remarks: CASE IS ALLOWED! 2 US OA's cited via email and fax recvd 6/19/2008; RU OA dated 2/28/2008 and JP OA dated 6/3/2008 recvd via email and fax 7/29/2008					
		Due Date Remarks:					
30-Jul-2008	IDS w/ Refs	1740-P00046/01	Allowed	App No.: 10/849050	App Dt: 20-May-2004	TLC	
Due Date	DC-IDS w/ Refs	United States of America		Pat No.:	Iss Dt:		
HDP Number:		Title: Recording Medium With Copy Protection Information And Apparatus/Method For Forming Recording, Reproducing, And Restricting Reproduction Of The Recording Medium					
1740-000046/US		Client: Royal Patent Law Firm					
		Client Reference: Client Ref. 1: OPP-2004-1030-US; Client Ref. 2: 03FDML069US04D1; Client Ref. 3: P05072DU/CIT					
		Action Due Remarks: Refs rec'd 5/23/2008 via e-mail, Refs cited via email 6/19/2008					
		Due Date Remarks:					
30-Jul-2008	IDS w/ Refs	1740-P00080/01	Pending	App No.: 10/485912	App Dt: 23-Aug-2004	GDY,REA	
Due Date	DC-IDS w/ Refs	United States of America		Pat No.:	Iss Dt:		
HDP Number:		Title: High-Density Optical Disc, Method For Recording And Reproducing Encrypted Data Thereon					
1740-000080/US		Client: Royal Patent Law Firm					
		Client Reference: Client Ref. 1: OPP-2004-0811-US; Client Ref. 2: 02FDML060US01; Client Ref. 3: P04726DU/CIT					
		Action Due Remarks: JP refs rec'd 7/28/2008 via fax					
		Due Date Remarks:					

Responsible: 

Responsible: 

Responsible: 



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,641	08/14/2006	Hiroyuki Gotani	12480-000146/US	5470
7590 08/26/2008 HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 8910 RESTON, VA 20195			EXAMINER STEVENS, THOMAS H	
RECEIVED AUG 27 2008 HARNESS, DICKEY & PIERCE			ART UNIT	PAPER NUMBER
			2121	
			MAIL DATE	DELIVERY MODE
			08/26/2008	PAPER

Notice of Abandonment

This application is abandoned in view of:

1. ☐ The applicant's failure to timely file a proper reply to the Office letter mailed on _____.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission date _____), which is after the expiration of the period for reply (including a total extension of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113(a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of:
 - (1) a timely filed amendment which places the application in condition for allowance;
 - (2) a timely filed Notice of Appeal (with appeal fee);
 - (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box e below).
 - (d) ☐ No reply has been received.
2. ☒ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission date _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____.
The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☒ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawing have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

Petitions to revive under 37 CFR 1.137(a) or (b), or request to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

SEARCHED	INDEXED
SERIALIZED	FILED
AUG 27 2008	
FBI - NEW YORK	
9/3/08	
File Petition to revive	
JSD/twf	

Attachment to Notice of Abandonment



**For questions concerning the notice contact
Office of Patent Publication**

Image Assistance Center: 888-786-0101.

Information is also available on the USPTO Internet web site:
<http://www.uspto.gov/web/patents/pubs/abandonnotice.html>

Respond to the Notice of Abandonment by one of the following:

1. Petition To Withdraw Holding of Abandonment (See MPEP 711.03(c) I and 37 CFR § 1.181) No fee required

Where an applicant contends that the application is not in fact abandoned (e.g., a reply was in fact filed), a petition under 37 CFR § 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action. Any petition under 37 CFR § 1.181 to withdraw the holding of abandonment not filed within 2 months of the mail date of a Notice of Abandonment may be dismissed as untimely under 37 CFR § 1.181(f). In order for a petition to be granted, the evidence must be sufficient according to 37 CFR § 1.8(b) Certificate of Mailing; 37 CFR § 1.10 "Express Mail" mailing; or MPEP 503 Postcard Receipt as Prima Facie Evidence. The petition should be addressed as follows:

By mail: Mail Stop: Issue Fee, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450
By facsimile: 571-273-8300

2. Petition To Withdraw Holding Of Abandonment Based On Failure To Receive Office Action (MPEP 711.03(c) II and 37 CFR § 1.181). No fee required

Where an applicant contends that the original Notice of Allowance and Fee(s) Due was never received, if adequately supported, the Office may grant the petition and remail the Office action. The showing required establishing non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petition should be addressed to the Technology Center handling the application as follows:

By mail: Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450
By facsimile: 571-273-8300

3. Petition To Revive An Abandoned Application (See MPEP 711.03(c) III)

Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment) a petition under 37 CFR § 1.137 (a) or (b) (accompanied by the appropriate petition fee) is necessary to revive the abandoned application. The text of these rules is available on the USPTO Internet Web site. Forms for these petitions, "Petition For Revival Of An Application For Patent Abandoned Unavoidably Under 37 CFR § 1.137(a)," PTO/SB/61, and "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," PTO/SB/64, are available in the forms section of the USPTO website: <http://www.uspto.gov>.

Petitions under 37 CFR § 1.137 should be addressed to the Office of Petitions as follows:

By mail: Mail Stop Petition, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450
By facsimile: 571-273-8300

Note: Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment